

E-FILED on 9/9/2011

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

EIT HOLDINGS, LLC,

Plaintiff,

v.

MONSTER WORLDWIDE, INC.,

Defendant.

No. C-11-02472 RMW

ORDER CLARIFYING PROCEDURAL
SCHEDULE

On September 2, 2011, defendant Monster Worldwide, Inc. ("Monster") filed a letter with the court requesting clarification of the procedural schedule. Dkt. No. 28. Specifically, Monster asks whether the parties are required to comply with the patent disclosure requirements under the Patent Local Rules before the further case management conference set for October 21, 2011. *Id.*

This case is one of several brought by plaintiff against different defendants asserting infringement of the same patent claims. On August 12, 2011, the court held an initial case management conference and asked the parties to explore the possibility of consolidating all related actions for the purposes of claim construction. Dkt. No. 27. In the parties' Joint Case Management Statement, Monster had proposed that the case be set on a schedule that would allow a claim construction ruling to issue in the first-filed case before the present parties are required to serve

1 infringement and invalidity contentions. Dkt. No. 23 at 7. Plaintiff, on the other hand, proposed to
2 follow the schedule as provided for in the Patent Local Rules. *Id.*

3 The Patent Local Rules contemplate that parties will generally exchange infringement and
4 invalidity contentions *before* proceeding to claim construction. The court does not see a basis for
5 waiting until after the further case management conference, as that date is independent of when
6 claim construction will occur. Moreover, the timing of claim construction proceedings is uncertain,
7 given the possibility of consolidation. Thus, the court finds the parties should exchange
8 infringement and invalidity contentions as set forth in the Patent Local Rules. Based on Monster's
9 representation that it was served with infringement contentions on August 26, 2011, Dkt. No. 28 at
10 1, Monster shall serve its invalidity contentions no later than October 10, 2011. *See* Patent L.R. 3-3.

11 The court anticipates that the parties will address claim construction scheduling at the further
12 case management conference. Thus, at this time, the parties need not follow the schedule set forth in
13 Patent L.R. 4 unless both parties agree to do so.

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16 DATED: 9/9/2011


RONALD M. WHYTE
United States District Judge